

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION**

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) 2:19-cr-00032-JRS-CMM-2
Defendant)

REPORT AND RECOMMENDATION

On June 27, 2025, the Court held an initial and final hearing on the Petition for Warrant/Violation for Offender Under Supervision filed on January 12, 2023 [Dkt. 83]. NICHOLAS P. APPLE (“Defendant”) appeared with FCD counsel, Sam Ansell. The Government appeared by Samantha Spiro on behalf of Matthew Miller, Assistant United States Attorney. U. S. Probation appeared by Officer Jennifer Considine on behalf of Officer Brian Deardurff.

The parties advised the Court at the outset of the hearing that a proposed agreement was reached by which the defendant would admit to Violation Number 1 and Violations 2, 3 and 4 would be dismissed by the United States. The parties recommend a sentence of six months below the Guidelines due to the amount of time already served in pretrial detention.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. §3583:

1. The defendant was advised that on January 13, 2023, this matter had been referred by the District Judge and that the District Judge has final authority whether to accept, reject, or modify the magistrate judge's recommendation.

2. After being placed under oath, Defendant advised that he consented to the proposed agreement, had sufficient opportunity to consult with counsel, and was satisfied with his representation. Defendant admitted Violation 1.

3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

VIOLATION NUMBER	NATURE OF NONCOMPLIANCE
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1. "The defendant shall not commit another federal, state, or local crime."

On January 6, 2023, an Affidavit of Probable Cause was filed against Mr. Nicholas P. Apple for Count I: Domestic Battery Resulting in Bodily Injury to a Pregnant Woman - Level 5 Felony, Count II: Battery Resulting in Bodily Injury to a Public Official - Level 5 Felony, Count III: Residential Entry - Level 6 Felony, Count IV: Possession of Methamphetamine - Level 6 Felony, Count V: Resisting Law Enforcement - Level 6 Felony, Count VI: Invasion of Privacy - Class A Misdemeanor, Count VII: Battery Resulting in Bodily Injury - Class A Misdemeanor, and Count VIII: Leaving the Scene of an Accident - Class B Misdemeanor in cause number 42C01-2301-F5-000001 in Knox County Indiana. This pending matter is currently sealed from public access and Mr. Apple has an active warrant in this matter.

4. The parties stipulated that:

- (a) The highest grade of violation is a Grade **A** violation.
- (b) Defendant's criminal history category is **III**.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is **18-24** months imprisonment.

5. The Magistrate Judge, having considered the factors in 18 U.S.C. §3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7), and as more fully set forth on the record, finds that:

(a) The Defendant violated the supervised release condition as alleged in Violation 1;

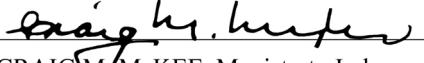
(b) Consistent with the parties' agreement, the Magistrate Judge recommends that the defendant be sentenced to the custody of the U.S. Bureau of Prisons for a period of 12 months and further recommends placement at Forrest City FCI or Greenville FCI (as requested by defendant). Consistent with the parties' agreement, no further supervised release will be ordered upon completion of that sentence. This slight deviation from the Sentencing Guidelines is justified by the defendant's long period in jail while awaiting resolution of the state court charges. He has been in the Knox County Jail since his arrest on those charges in January 2023. While the charges are certainly serious, the defendant has been in the unenviable posture of serving his sentence before his guilt was determined. He anticipates receiving a sentence of probation presently after entering a plea of guilty to at least some of those charges. A federal sentence of 12 months seems sufficient under those circumstances, and both the Government and Defendant agree;

(c) That the agreement of the parties is an appropriate resolution of this matter and the agreement is commended to the favorable consideration of the District Judge with the Magistrate Judge's recommendation for sentencing.

Defendant shall remain in custody pending the District Judge's action on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the 14-day objection period to file objections for the consideration of the District Judge.

Dated: June 27, 2025


CRAIG M. McKEE, Magistrate Judge
United States District Court
Southern District of Indiana

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